

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814



February 3, 1989

ALL COUNTY INFORMATION NOTICE NO. I-09-89

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: AFDC IRCA UPDATE

REFERENCE: ACIN I-88-87, ACL 88-39, 88-131

The purpose of this letter is to summarize and clarify how aliens gaining status under the Immigration Reform and Control Act of 1986 (IRCA) are to be treated under the current AFDC program rules. Information in the letter is not intended to apply to the Refugee Cash Assistance (RCA) Program. Important information related to the subject of this letter was presented in All County Letters 88-39 and 88-131.

Some changes to State AFDC regulations are expected to result from IRCA. These regulation changes will be issued on a priority basis after the State receives the necessary Federal regulations.

In the following discussion, aliens obtaining status under Sections 245A, 210 (Special Agricultural Workers -- SAWS), and 210A (Replacement Agricultural Workers -- RAWs) of the Immigration and Nationality Act as amended by IRCA are referred to as IRCA aliens.

The balance of this letter is divided into 4 parts as follows:

- Part 1 -- Eligibility of IRCA Aliens
- Part 2 -- Documentation of Alien Status
- Part 3 -- Modifications/Corrections to ACL 88-131
- Part 4 -- Other Information

## Part 1 -- Eligibility of IRCA Aliens

### LAWFUL PERMANENT RESIDENCE IS REQUIRED FOR AFDC

Until the new regulations can be issued, current regulations remain in effect. The basis for alien eligibility in the current regulations is lawful PERMANENT residence in the U.S. MPP 42-431.2 provides the details of this requirement:

To be eligible for assistance, an applicant or recipient must be "An alien who is lawfully admitted for permanent residence or (is) permanently residing in the U.S. under color of law ...."

IRCA aliens must have PERMANENT residence status to meet this requirement -- just as ANY OTHER ALIEN must have lawful permanent residence status to meet the requirement. Without permanent residence status, an alien cannot get AFDC.

The earliest date that any IRCA aliens can have permanent residence status is November 7, 1988 -- which is the earliest that Section 245A aliens can apply for adjustment to permanent residence status.

### SPECIAL RULE FOR SAWS AND RAWs ALIENS -- PERMANENT STATUS

Section 210 (SAWS) and 210A (RAWs) aliens who have TEMPORARY residence status also meet this eligibility requirement. The IRCA law provides that they have PERMANENT residence status for AFDC, even though they have temporary residence status for immigration purposes.

### SPECIAL 5-YEAR RULE -- INELIGIBILITY FOR FEDERAL BENEFITS

As noted above, an IRCA alien meets the alienage eligibility requirement for AFDC in the same way as any alien does -- by having PERMANENT status. There is, however, a rule limiting Federal benefits for IRCA aliens during the 5-year period beginning with an alien's adjustment to temporary residence status.

During this 5-year period (even after the alien has been adjusted to permanent residence status), IRCA aliens do not qualify for Federal AFDC. Thus, during this period, each of these IRCA aliens who meets the requirements of the MPP Regulations will only be able to receive benefits which are NOT federally funded, that is, State-Only benefits.

## STATE-ONLY AFDC BENEFITS

The AFDC program available to eligible IRCA aliens who remain ineligible under the 5-year limit on Federal benefits is State-Only U. The only exception identified at this time is the pregnant woman with no eligible children having FG deprivation. She would be aided as a State-Only recipient (without the U designation).

State-Only U benefits are available to IRCA aliens for the usual 3-month period when they qualify either for Federal or State-Only aid under the MPP rules. This eligibility includes families with FG and with U deprivation and the pregnant woman with U deprivation. (IRCA aliens meeting the MPP requirements for Federal U are not disqualified from receiving this State-Only U assistance as long as they continue to be disqualified from Federal aid under the 5-year rule.)

As a result of court rulings in the Reyna and Shaw cases, including court interpretations of Welfare and Institutions Code Section 11201, we have concluded that IRCA alien assistance units that do not have both parents in the home cannot be denied State-Only aid for the sole reason that one parent is absent from the home. As a result, up to 3 months of State-Only U assistance per year should be provided to eligible IRCA aliens who do not have both parents in the home.

## AFDC-FG PREGNANT-WOMAN-ONLY AU

A pregnant IRCA alien (with no eligible children) who qualifies under the MPP Regulations for AFDC-FG would receive State-Only AFDC. Normally State-Only aid is available only during the first 2 trimesters of pregnancy because Federal aid would normally be available during the third trimester. If the IRCA alien is ineligible for Federal aid due to the 5 year limit on Federal assistance, her aid would continue during the third trimester under the State-Only program as long as she remains otherwise eligible.

## SUMMARY OF ELIGIBILITY FOR IRCA ALIENS

- o IRCA aliens meet the AFDC alien eligibility requirement the same way all aliens meet it -- by having permanent residence status or permanently residing under color of law (PRUCOL).
- o A special rule provides that Section 210 (SAWS) and 210A (RAWS) aliens in temporary residence status for immigration have permanent residence status for AFDC.
- o Another special rule provides that IRCA aliens who qualify for AFDC under MPP regulations cannot receive Federal AFDC during the 5-year period that begins with the individual's adjustment to temporary residence status -- limiting AFDC during this period to State-Only benefits.

## Part 2 -- Documentation of Alien Status

### ACCEPTABLE DOCUMENTATION OF PERMANENT RESIDENCE STATUS

MPP 42-433.3 lists and describes documents that provide acceptable evidence of permanent residence status. Most eligible aliens will have documents of the types specified in this section, all of which are either provided by INS or are court orders. Please note, however, that MPP 42-433.3 does not provide an exclusive list of all acceptable documentation.

As an example, a rare exception to the norm that an alien have either an INS document or a court order is the situation of the North American Indian born in Canada who has at least 50% Indian blood. By treaty (Jay Treaty), these persons can freely pass between the two countries. When they are in the United States, they are considered to be aliens with permanent residence status without having to apply to INS for this status.

In addition to INS and/or court documents, acceptable documentation of this status would include birth records certifying that a Canadian born person is of 50% Indian blood, affidavits from tribal officials to this effect, or other clear proof of this status.

### INS ALIEN DOCUMENTATION NOT SHOWN IN MPP 43-433.3

An INS document which appears to verify permanent residence status, but which is not one of the documents described in MPP 42-433.3, may still be proof of eligibility.

The "Temporary Resident" Card, I-688 issued by INS is acceptable evidence of permanent residence status (for AFDC benefits) for Section 210 (SAWS) and 210A (RAWS) aliens. The I-688 carries an expiration date which must be observed by a county accepting the card as evidence of status. Eligibility for aid expires when the card expires -- unless the alien obtains additional documentation extending his or her eligible status beyond the expiration date.

The "Employment Authorization" Card, I-688A, issued to IRCA aliens is not evidence of permanent status and is not evidence of eligibility for AFDC. For more information on these cards, see Attachment 1 to ACIN I-88-87 issued on October 7, 1987.

Another document issued to IRCA aliens is the "LEGALIZATION FEE RECEIPT", Form I-689. It is not evidence of temporary (or permanent) residence status and is not acceptable evidence for granting AFDC.

If unsure whether a specific document from INS not mentioned in the Manual of Policies and Procedures, or above, is acceptable evidence of permanent residence status, contact INS.

## INS RECEIPT AS DOCUMENTATION FOR ENTRY INTO THE SAVE SYSTEM

ACL 88-131 provides that when an alien presents an INS Receipt, the alien's documentation should be directly submitted to the secondary SAVE System. Although the receipt is acceptable documentation for entering the SAVE System, it is NOT acceptable documentation for granting aid. Aid must be delayed until status is verified.

If the receipt presented to the County by an alien provides some indication that the alien may have permanent residence status, the receipt and any other documentation provided by the alien should be submitted to the SAVE secondary system. An example of such a receipt would be a G-711 "General Fee Receipt" from INS indicating that the alien has reapplied for an I-551 which he or she has lost.

An example of a receipt that would not be submitted to the SAVE secondary system for an AFDC applicant is the I-689 "Legalization Fee Receipt" mentioned above, because this receipt does not imply that the alien has permanent residence status.

If the response from SAVE indicates satisfactory immigration status (permanent residence status or PRUCOL), the combination of the INS Receipt and the SAVE written response provides acceptable documentation of alien status for granting aid. This assumes that the County has taken all necessary steps to be assured that the alien requesting aid is the person to whom the documents were issued.

## Part 3 -- Modifications/Corrections to ACL 88-131

### DECLARATION OF CITIZENSHIP OR ALIEN STATUS

Page 1 of ATTACHMENT 1 of ALL COUNTY LETTER NO. 88-131 Dated September 29, 1988 contained the following procedure:

For AFDC and PA cases only, CWDs may accept certification of citizenship or alien status on the CA 2 as meeting the declaration requirement. If the CA 2 is used in place of the CA 64, the CWD must notify the applicant/recipient of the use of SAVE and must annotate on the CA 2 that the notification was provided.

This procedure has since been modified as follows by adding the underlined language:

For AFDC and PA cases only, CWDs may accept certification of citizenship or alien status on the CA 2 as meeting the declaration requirement. If the CA 2 is used in place of the CA 64, and any applicant/recipient is an alien, the CWD must notify the applicant/recipient of the use of SAVE and must annotate on the CA 2 that the notification was provided.

Therefore, when the CA 2 is used as meeting the declaration requirement, the county need not follow the above procedure when all persons in the AU are citizens.

## SECONDARY VERIFICATION PROCEDURES

Page 2 of ATTACHMENT 2 of ALL COUNTY LETTER NO. 88-131 stated that:

Secondary verification must be instituted in the following circumstances: ...

7. All IRCA aliens must be run through the secondary verification process in order to determine current eligibility status.

However, ATTACHMENT 4 which is a table, indicated that:

Primary Verification should be initiated for valid appearing I-688's.

The information on the ATTACHMENT 4 table is correct. IRCA aliens with temporary status will be submitting I-688 cards as evidence of eligible status. The I-688's should be processed for Primary Verification before going to Secondary Verification -- unless there is something questionable about the documentation.

IRCA aliens with permanent residence status would have other documentation indicating permanent residence status. This documentation should also be processed initially for Primary Verification, unless questionable.

## CONSENT OF DISCLOSURE FOR IRCA ALIENS, FORM CA 64A

Page 3 of ATTACHMENT 1 of ALL COUNTY LETTER NO. 88-131 stated that Section 245A and Section 210 aliens:

... must sign a consent of disclosure statement to be submitted to INS with the Form G-845, Document Verification Request, before secondary verification can be initiated.

INS now indicates that requests for secondary verification for aliens that present an I-688 as documentation will be processed without a Document Verification Request (Form CA 64A). Therefore, it will no longer be necessary or appropriate for counties to have IRCA aliens (who are requesting AFDC and who present the I-688 as documentation) fill in this form. The only purpose of the form was to enable INS to release the requested information.

There is also no purpose in having IRCA aliens who have attained permanent residence status fill in the CA 64A. There is no reason to believe that INS would require the CA 64A before verifying the immigration status of IRCA aliens who have permanent residence status.

#### Part 4 -- Other Information

##### EFFECTIVE DATE OF TEMPORARY RESIDENCE STATUS

A question has arisen concerning which date to use as the beginning date of temporary residence status for AFDC purposes. INS grants temporary residence status effective the date of application for this status, even though the status is granted several months after the date of application. Therefore, when evaluating an AFDC application, you may have to decide if the beginning date of temporary residence status is the date of application for this status, or the date the status is actually granted.

At present, we have no Federal guidance on this issue. We suggest that Counties use the Issue Date shown on the I-688 Temporary Resident Card as the effective date of temporary residence. This date corresponds with the date of application for temporary residence.

##### PROCESSING AN AFDC APPLICANT FOR ALIENAGE -- FLOWCHART SUMMARY

Attached to this ACIN is a flowchart on which we have summarized the major steps involved in processing an applicant through the alienage requirements of AFDC. Many of the processes outlined on the flowchart are described in detail in ACL 88-131 which covers the SAVE verification system. You may wish to refer to this ACL as you review the flowchart.

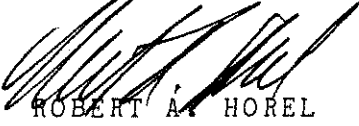
If you have questions, please direct your inquiries to the unit that has responsibility for the main focus of your questions, as follows:

For AFDC, contact Mr. John Honeycutt of the AFDC and Food Stamp Policy Implementation Bureau at (916) 445-1131.

For Food Stamps, contact Ms. Carole Geller of the same Bureau at (916) 324-2015.

For questions on the operation of the SAVE System, contact at the Fraud Program Management Bureau either Ms. Barbara Triplett at (916) 445-2423 or Ms. Maureen Paizs at (916) 445-3417.

For all other questions regarding IRCA, contact Ms. Pat Takahashi of the Immigration and Resettlement Management Bureau at (916) 324-8697 or 323-5846.



ROBERT A. HOREL  
Deputy Director

Attachment

cc: CWDA



FLOWCHART IDENTIFIER: IRCA

\*\*\* AFDC \*\*\*

01-26-1989

SUBMODULE: IRCA Update (Do not use for HCA)

MODULE: Citizenship/Alienage

